

# **Exhibit E**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

MDL NO. 1456

CIVIL ACTION NO. 01-CV-12257-PBS

Judge Patti B. Saris

Magistrate Judge Marianne B. Bowler

IN RE: PHARMACEUTICAL INDUSTRY

AVERAGE WHOLESALE PRICE LITIGATION

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THIS DOCUMENT RELATES TO:

U.S. Ex rel. Ven-A-Care of the

Florida Keys, Inc., v. Abbott

Laboratories, Inc., et al.,

No. 06-CV-11337-PBS

VOLUME I OF II

VIDEOTAPE 30(B)(6) DEPOSITION OF PALMETTO

(ROBIN KREUSH STONE)

Thursday, February 28, 2008

9:00 AM to 5:00 PM

Columbia, South Carolina

Reported by: Jane G. LaPorte

Merit and Professional Certifications

<p style="text-align: right;">110</p> <p>1 Q. Do you recognize that handwriting?</p> <p>2 A. Yes.</p> <p>3 Q. Whose handwriting is that?</p> <p>4 A. Mine.</p> <p>5 Q. Was this on the original document? Or</p> <p>6 did you add this?</p> <p>7 A. No. This was on the original document,</p> <p>8 that was in the folder.</p> <p>9 Q. And then are there -- if we go, for</p> <p>10 example, to page 183, there's some handwritten</p> <p>11 annotations on this document, as well, both the top</p> <p>12 and on the side.</p> <p>13 Were those annotations added for this</p> <p>14 litigation?</p> <p>15 Or were they part of the original</p> <p>16 document?</p> <p>17 A. I believe they were part of the original</p> <p>18 document.</p> <p>19 Q. Do you recognize the handwriting for</p> <p>20 either of those notes?</p> <p>21 A. I want to think that might belong to</p> <p>22 Schanell McClerkin, but I'm not positive.</p>	<p style="text-align: right;">112</p> <p>1 A. That would have been based on the</p> <p>2 average.</p> <p>3 Q. This is a situation where we have an even</p> <p>4 number of drugs in the array, and you averaged the</p> <p>5 two middle numbers?</p> <p>6 A. Correct.</p> <p>7 MR. TORBORG: Mark this as the next</p> <p>8 exhibit.</p> <p>9 (EXHIBIT ABBOTT 533 MARKED.)</p> <p>10 MR. TORBORG: For the record, what is</p> <p>11 marked as Exhibit 533, is a cover page -- an excerpt</p> <p>12 from the 1993 Red Book, bearing the Bates No.</p> <p>13 RB03629, 04230 through 31.</p> <p>14 A. Uh-huh.</p> <p>15 Q. Ms. Stone, you are familiar with the Red</p> <p>16 Book?</p> <p>17 A. Yes, I am.</p> <p>18 Q. When Palmetto calculated the AWP prices,</p> <p>19 would it use hard copy of the annual book, monthly</p> <p>20 updates, quarterly updates, all of those? Or none</p> <p>21 of those?</p> <p>22 A. I'm trying to recall. And I think it</p>
<p style="text-align: right;">111</p> <p>1 Q. If we go back to Bates Page ending 156,</p> <p>2 this is a document titled: Med B Drug Pricing Form</p> <p>3 date 5/24/94.</p> <p>4 Consultant is listed as AKT; do you know</p> <p>5 who that is?</p> <p>6 A. That is Kristen Thomas, I believe, or</p> <p>7 either Aimee Kornegay, but I don't know. I want to</p> <p>8 think it's Kristen Thomas.</p> <p>9 Q. Can you tell us what this page is?</p> <p>10 A. It is a drug array that was produced</p> <p>11 for -- what appears to be the 1993/94 fee screen</p> <p>12 year.</p> <p>13 Q. And can you tell, looking at the</p> <p>14 document, how the price -- let me strike that --</p> <p>15 The price calculated \$18.66 on the right</p> <p>16 side of the document; do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Is that the median AWP that was</p> <p>19 calculated?</p> <p>20 A. Yes.</p> <p>21 Q. And can you tell, looking at the array,</p> <p>22 how it was arrived at?</p>	<p style="text-align: right;">113</p> <p>1 depended on, you know, receipt of the information</p> <p>2 What I recall is, that at one time we</p> <p>3 used the annual -- at one time we used the annual,</p> <p>4 plus I think monthly.</p> <p>5 But I'm not positive if that was a</p> <p>6 monthly publication.</p> <p>7 And then I think later we used the</p> <p>8 quarterly CD.</p> <p>9 Q. If we go to -- you see the column in the</p> <p>10 array document that says the page number 585?</p> <p>11 A. Uh-huh.</p> <p>12 Q. If you go to the last page of the exhibit</p> <p>13 that I just handed you, 533; is there a page number</p> <p>14 at the top that says 585?</p> <p>15 A. Yes.</p> <p>16 Q. Does it -- does this allow you to infer</p> <p>17 that this is the -- a copy of the page that the</p> <p>18 consultant used to come up with the arrays?</p> <p>19 A. I would think so.</p> <p>20 Q. And do you see there that there is --</p> <p>21 under Vancomycin HCL, you see that, at the top --</p> <p>22 A. Yes.</p>

<p style="text-align: right;">114</p> <p>1 Q. -- of the document, there is -- there is</p> <p>2 a Abbott hospital version of the 500 milligrams, ten</p> <p>3 each; you see that?</p> <p>4 <b>A. (No response.)</b></p> <p>5 Q. Does that correspond to the one on the</p> <p>6 page?</p> <p>7 <b>A. Yes, it does.</b></p> <p>8 Q. And likewise, do the entries for Elkinson</p> <p>9 and Harbor also correspond?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. And then you see there's a section that</p> <p>12 says: See Lycophin?</p> <p>13 <b>A. Yeah.</b></p> <p>14 Q. There is an entry for Schein; does that</p> <p>15 correspond for the entry on the array?</p> <p>16 <b>A. Yes, it does.</b></p> <p>17 Q. Now, do you know why it is that there's</p> <p>18 also one above that for Quad Pharm; do you see</p> <p>19 that? PI-10-MI with diluent, 500 milligrams, ten</p> <p>20 each, and then there is a price; do you see that?</p> <p>21 <b>A. Yes, I do.</b></p> <p>22 Q. Do you know why that was not included</p>	<p style="text-align: right;">116</p> <p>1 for Vancomycin in 1994?</p> <p>2 <b>MR. HENDERSON: Objection.</b></p> <p>3 <b>MR. TORBORG: What did I say wrong?</b></p> <p>4 <b>MR. HENDERSON: You said: An array in</b></p> <p>5 <b>1994; and that's vague and ambiguous.</b></p> <p>6 <b>MR. TORBORG: Okay.</b></p> <p>7 Q. Does it appear to be an array that was</p> <p>8 calculated at some point during 1994?</p> <p>9 <b>A. This 10157?</b></p> <p>10 Q. Yes.</p> <p>11 <b>A. It has a date of September, 1994 on it.</b></p> <p>12 <b>So, it looks like they probably were</b></p> <p>13 <b>developing it at that time.</b></p> <p>14 <b>But the note in the bottom corner leads</b></p> <p>15 <b>me to believe that it's for 1995.</b></p> <p>16 Q. Now, this one, it indicates a price</p> <p>17 implemented of \$18.81, and a price calculated of</p> <p>18 \$14.69; is that right?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. And was the \$14.69, the average of the</p> <p>21 two middle numbers in this even-numbered array?</p> <p>22 <b>A. Without a calculator, I would say yes.</b></p>
<p style="text-align: right;">115</p> <p>1 with the array?</p> <p>2 <b>A. I want to say because of the added</b></p> <p>3 <b>description with diluent; but I'm not positive.</b></p> <p>4 Q. Do you know what that means: With</p> <p>5 diluent?</p> <p>6 <b>A. Yes. I do, now.</b></p> <p>7 Q. What does it mean?</p> <p>8 <b>A. I said I do -- where it looks like they</b></p> <p>9 <b>have the powder for injection.</b></p> <p>10 <b>And this particular source says that it</b></p> <p>11 <b>is also including the diluent, which they use to</b></p> <p>12 <b>liquify the powder form of the drug.</b></p> <p>13 Q. And why would that mean it wouldn't be</p> <p>14 included on the array?</p> <p>15 <b>A. At that time, I'm not sure. I don't know</b></p> <p>16 <b>if maybe a decision -- where it was excluded</b></p> <p>17 <b>previously, and because it had the additional</b></p> <p>18 <b>description, it continued to be excluded; but I</b></p> <p>19 <b>don't know for certain.</b></p> <p>20 Q. If we go to the next array -- and the</p> <p>21 document that you have your left hand on -- Abbott</p> <p>22 Exhibit 532, does this appear to be another array</p>	<p style="text-align: right;">117</p> <p>1 Q. I have done the math, seems to work out.</p> <p>2 And there is a note next to \$18.81, that</p> <p>3 says: Per C. Do you know what that means?</p> <p>4 <b>A. I think it continues on the next page.</b></p> <p>5 Q. Per CMS use the HCFA media, not the true</p> <p>6 media; is that right?</p> <p>7 <b>A. Yes.</b></p> <p>8 Q. And is that along the lines of what we</p> <p>9 talked about earlier today, about what the HCFA</p> <p>10 median was -versus- the true median?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. And can you explain that to us again.</p> <p>13 <b>A. At one point in time, the HCFA median is</b></p> <p>14 <b>using the next highest number when you have an even</b></p> <p>15 <b>number; whereas, the true median would be the</b></p> <p>16 <b>average of the two middle numbers.</b></p> <p>17 Q. And because of the HCFA policy that was</p> <p>18 in place at that time, instead of paying \$14.69 per</p> <p>19 500 milligrams of Vancomycin HCL, the program was</p> <p>20 paying \$18.81; is that right?</p> <p>21 <b>A. That's correct.</b></p> <p>22 Q. And that increase had nothing to do with</p>